

Message Text

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SUBJECT: LENDING TO ITALIAN BORROWERS BY U.S. BANKS

REFTEL: A) ROME 0072; B) ROME 267

1. FOLLOWING IS RESPONSE TO REF A CONCERNING REPORTS IN
CERTAIN ITALIAN NEWSPAPERS OF OSTENSIBLE INVESTIGATION BY
COMPTROLLER OF CURRENCY OF "UNITED STATES BANKS LENDING
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TO ITALIAN BORROWERS IN ORDER TO DETERMINE WHETHER BANKS
HAVE EXCEEDED LIMIT ON MAXIMUM CREDIT WHICH MAY BE GRANTED
TO ANY INDIVIDUAL BORROWER."

2. COMPTROLLER HAS NOT SEEN ACTUAL REPORTS AND THEREFORE CANNOT COMMENT IN DETAIL. HOWEVER, IT CAN CONFIRM THAT THERE IS NO GENERAL INVESTIGATION BY COMPTROLLER OF CURRENCY OF UNITED STATES BANKS LENDING TO ITALIAN BORROWERS OR BORROWERS IN ANY OTHER FOREIGN COUNTRY.

3. QUESTIONS CONCERNING SPECIFIC TRANSACTIONS OF A NATIONAL BANK WITH PARTICULAR BORROWERS, WHETHER THEY BE FOREIGN GOVERNMENTS, OTHER FOREIGN ENTITIES, OR UNITED STATES CITIZENS, ARE DISCUSSED BY THE COMPTROLLER WITH THE SPECIFIC BANK ONLY ON A CONFIDENTIAL BASIS.

4. FOR YOUR FURTHER GENERAL INFORMATION, THERE ARE A NUMBER OF STATUTORY AND REGULATORY RESTRICTIONS PLACED UPON U.S. BANK LENDING TO ANY CLASS OF BORROWER.

5. PERHAPS MOST SIGNIFICANTLY, 12 USC 84 GENERALLY LIMITS THE "TOTAL OBLIGATIONS TO ANY NATIONAL BANKING ASSOCIATION OF ANY PERSON, COPARTNERSHIP, ASSOCIATION, OR CORPORATION ..." TO NO MORE THAN 10 PERCENT OF THE NATIONAL BANK'S CAPITAL STOCK AND UNIMPAIRED SURPLUS. HOWEVER, WHEN SEVERAL SUBSIDIARY BUSINESSES OF A SINGLE ENTITY ARE BORROWING FROM A NATIONAL BANK, THE LOANS TO THE INDIVIDUAL BUSINESSES ARE NOT NORMALLY COMBINED UNLESS (1) THE BANK IS LOOKING TO A SINGLE SOURCE FOR REPAYMENT OF THE LOAN; (2) ONE OR MORE LOANS IS FOR THE ACCOMMODATION OF THE CONTROLLING ENTITY OR ANOTHER SUBSIDIARY; OR (3) THE BORROWING BUSINESSES ARE NOT SEPARATE CONCERNS IN REALITY BUT MERELY DEPARTMENTS OR DIVISIONS OF A SINGLE ENTERPRISE. SEE 12 CFR 7.1310.

6. FOR A NUMBER OF YEARS, BORROWINGS BY ENTITIES RELATED IN ONE FASHION OR ANOTHER TO A SOVEREIGN FOREIGN GOVERNMENT HAVE BEEN TESTED FOR LENDING LIMITS PURPOSES AGAINST PRINCIPLES QUITE SIMILAR TO THOSE APPLIED TO BUSINESS SUBSIDIARIES UNDER 12 CFR 7.1310. THUS, LOANS TO SUCH ENTITIES WOULD BE COMBINED ONLY IF (1) THE BORROWING

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ENTITY DOES NOT HAVE RESOURCES AND/OR INCOME OF ITS OWN SUFFICIENT TO MEET THE REPAYMENT SCHEDULE; OR (2) THE PROCEEDS OF THE LOAN, RATHER THAN BEING USED FOR ANY APPROPRIATE BUSINESS PURPOSE OF THE BORROWING ENTITY, ARE INSTEAD MADE AVAILABLE TO THE CENTRAL GOVERNMENT WHICH CONTROLS THE BORROWER.

7. WHILE 12 CFR 7.1310 AND A NUMBER OF OTHER INTERPRETIVE RULINGS OF THE COMPTROLLER'S OFFICE ARE NOW UNDER REVIEW, THERE IS NOT PRESENTLY PENDING ANY PROPOSED REVISION WHICH

WOULD HAVE AN EFFECT UPON LENDING LIMITS APPLICABLE TO FOREIGN STATE ENTITIES. CONSEQUENTLY, LOANS BY A US BANK TO A NUMBER OF FOREIGN STATE ENTITIES - BE THEY ITALIAN OR OTHERWISE - WOULD BE COMBINED FOR LENDING LIMIT PURPOSES ONLY WHEN THE PROVISIONS OF 12 USC. 84 AND 12 CRF 7.1310 REQUIRE SUCH COMBINATION.

8. WHILE THE COMPTROLLER IS NOT FREE TO COMMENT ON ANY SPECIFIC TRANSACTIONS, WE NOTE, IN PARTICULAR, THAT THE MERE FACT THAT LOANS TO A NUMBER OF FOREIGN STATE ENTITIES MAY, IN ADDITION TO THE LEGITIMATE BUSINESS PURPOSES OF THE BORROWER, ALSO SERVE A BALANCE OF PAYMENTS PURPOSE, WOULD NOT MEAN THAT - STANDING ALONE - THE LOANS WOULD BE COMBINED FOR LENDING LIMITS PURPOSES. KISSINGER

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